

Docket No.: 320529180US1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Endres et al.

Allowed: April 16, 2009

Application No.: 10/782,316

Confirmation No.: 7621

Filed: February 19, 2004

Art Unit: 2611

For: JOINT, ADAPTIVE CONTROL OF
EQUALIZATION,
SYNCHRONIZATION, AND GAIN IN A
DIGITAL COMMUNICATIONS
RECEIVER

Examiner: E. Bayard

APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION
UNDER 37 C.F.R. § 1.705(D)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests reconsideration of the patent term adjustment indicated on the Issue Notification of August 5, 2009.

(1) Applicant is including the fee set forth in 37 C.F.R. § 1.18(e). Please charge any deficiencies or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 320529180US1 from which the undersigned is authorized to draw.

(2) Statement of Facts

(i) Correct Patent Term Adjustment and Bases for Adjustment

The correct patent term adjustment is 1284 days. The PTO's calculated patent term adjustment is 613 days. Applicant is entitled to an additional 671 days of patent term adjustment.

The PTO properly accounted for the delay under 35 U.S.C. § 154(b)(1)(A), referred to as the "A delay." The A delay is 715 days.

The PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(B), referred to as the "B delay." The B delay is 753 days.

The PTO failed to properly account for the overlap under 35 U.S.C. § 154(b)(2)(A) in the A delay and the B delay. The overlap is 44 days.

The PTO properly accounted for the reduction in patent term adjustment under 35 U.S.C. § 154(b)(2)(C). The reduction is 140 days.

The correct patent term adjustment is the sum of the A delay and the B delay minus the overlap and minus the reduction. Thus, the correct patent term adjustment is $715 + 753 - 44 - 140$, which is 1284 days.

(ii) Relevant Dates

A Delay		
Filing Date + 14 months	02/19/2004	↓
First Office Action	04/04/07	715
Total		715

B Delay		
Filing Date + 3 Years	02/19/2007	↓
Issue Date/1st RCE filed	03/13/2009	753
Total		753

Overlap	
Total	44

Reduction		
Notice to File Missing Parts	05/19/2004	↓
Reply	06/04/2004	0
Non-Final Office Action	04/04/2007	↓
Reply	10/03/2007	91
Final Office Action	12/27/2008	↓
Reply	03/20/2008	0
Non-Final Office Action	04/07/2008	↓
Reply	07/29/2008	22
Final Office Action	11/14/2008	↓
Reply	03/13/2009	27
Total		140

(iii) Terminal Disclaimer

The patent is not subject to a terminal disclaimer.

(iv) Failure to Engage in Reasonable Efforts

Applicant is not contesting the reduction in patent term adjustment of 140 days as accounted for by the PTO that are "deemed" to be a failure to engage in reasonable efforts under 37 C.F.R. § 1.704. There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the application under 37 C.F.R. § 1.704.

Dated: October 23, 2009

Respectfully submitted,

By 

Devin Chin

Registration No.: 58,413

PERKINS COIE LLP

P.O. Box 1247

Seattle, Washington 98111-1247

(206) 359-8000

(206) 359-9000 (Fax)

Attorney for Applicant